

Introduced by Senator KehoeFebruary 17, 2005

An act to amend Section 13 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 373, as introduced, Kehoe. County water authority: encroachments.

Existing law, the County Water Authority Act, authorizes the board of directors of a county water authority to establish procedures for the abatement of an encroachment that violates a regulation adopted by the authority regarding its facilities, property, and rights-of-way and to recover the costs of an abatement by means of a lien.

This bill would provide that an encroachment maintained in violation of a regulation is a public nuisance that is subject to abatement by bringing a civil proceeding and would authorize the authority to recover the costs of an abatement in that civil proceeding.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13 of the County Water Authority Act
- 2 (Chapter 545 of the Statutes of 1943) is amended to read:
- 3 Sec. 13. (a) All matters and things necessary for the proper
- 4 administration of the affairs of the authority that are not provided
- 5 for in this act shall be provided for by the board of directors of
- 6 the authority by ordinance or resolution. Any action required by
- 7 this act to be done by resolution may be done, with equal
- 8 validity, by ordinance.

1 (b) (1) The board of directors of the authority may adopt
2 regulations regarding its facilities, property, and rights-of-way.
3 The board of directors, by ordinance, may make a violation of
4 any regulation adopted pursuant to this subdivision subject to an
5 administrative fine.

6 (2) The board of directors shall set forth, by ordinance or
7 resolution, the administrative procedures that govern the
8 imposition, enforcement, collection, and administrative review
9 by the authority of those administrative fines.

10 (3) The amount of the administrative fine shall not exceed the
11 maximum fine for infractions set forth in subdivision (b) of
12 Section 25132 and subdivision (b) of Section 36900 of the
13 Government Code. For the purpose of carrying out this
14 subdivision, Section 53069.4 of the Government Code applies,
15 except that any action required by that section to be taken by
16 ordinance may be taken by resolution of the board of directors.

17 (c) The board of directors of the authority, by ordinance, may
18 establish procedures for the abatement of encroachments that
19 violate any regulation adopted pursuant to subdivision (b) and to
20 recover the costs of abatement by means of a lien with the status
21 and priority of a judgment lien on the property that is subject to
22 the easement or right-of-way from which the encroachment is
23 abated. These procedures shall provide for a reasonable period,
24 specified in the ordinance, during which a person responsible for
25 a continuing violation may abate the encroachment before the
26 commencement of any abatement under this section. For the
27 purposes of carrying out this subdivision, Section 38773.1 of the
28 Government Code applies, except that any action required by that
29 section to be taken by the legislative body shall be taken by the
30 board of directors of the authority. The remedy authorized in this
31 subdivision is cumulative to any other remedy authorized by law.

32 (d) *An encroachment maintained in violation of a regulation*
33 *adopted pursuant to subdivision (b) is a public nuisance that is*
34 *subject to abatement by bringing a civil proceeding. In any*
35 *proceeding to abate a violation, the authority shall be entitled to*
36 *recover in that civil proceeding the costs of abatement.*